

REMARKS

Claims 1, 3-22 and 35-37 are pending. Claims 1, 8, 11-13, 15-17, and 35 are amended. Claims 38-53 are canceled. Support for these amendments derives from [0034] and [0080] of the Specification as published and elsewhere throughout the Specification as filed.

Issues outstanding:

- Claims 1, 3-22 and 35-53 are rejected as not enabled under 35 U.S.C. 112, first paragraph. This rejection is partially mooted by the cancellation of claims 38-53.
- Claims 38-53 are rejected as not supported by the written description under 35 U.S.C. 112, first paragraph. This rejection is mooted by the cancellation of claims 38-53.
- Claims 1, 3-6, 11, 15, 16 and 18-22 are rejected under 35 U.S.C. § 102(e) as anticipated by Ando et al. (US 2004/0018190, filed 11/22/01).

I. 35 U.S.C. § 112, first paragraph

Claims 1, 3-22 and 35-53 are rejected as not enabled under 35 U.S.C. 112, first paragraph. This rejection is partially mooted by the cancellation of claims 38-53. Claims 1, 8 and 35 have been amended to define the N-terminal variants as those having a deletion, substitution, or combination thereof, of from 1 to 16 N-terminal amino acid residues where the N-terminal lactoferrin variant retains the same biological function as full length lactoferrin. In view of these amendments, Applicant respectfully requests the Examiner withdraw the rejection.

II. 35 U.S.C. § 102(e)

Claims 1, 3-6, 11, 15-16 and 18-22 are rejected under 35 U.S.C. § 102(e) as anticipated by Ando et al. (US 2004/0018190, filed 11-22-01). Applicant has amended the

claims to specify pain associated with recovery from surgery. See, e.g., Example 6 of the Specification. Ando discloses a patient with abdominal fluid retention and associated pain. Ando at [0056]. Relief of the abdominal fluid retention was accomplished by means of a Lactoferrin therapy. The Examiner infers that this treatment eliminated the pain associated with the fluid retention. There is insufficient basis to establish that this is necessarily so, and thus Ando cannot anticipate the claims herein. MPEP 2112 (IV.)

Additionally, the Examiner's claim construction reads on pain that is temporally post surgical but derives from unrelated sources such as abdominal fluid build up resulting from recurrent cancer. Applicant does not agree that the Examiner's claim construction is remotely reasonable. "Pain associated with surgery" is pain which is a consequence of a surgery. However, in the interest of expediting the application's issuance, Applicant has amended the claims to pain associated with recovery from surgery. Applicant requests the rejection be withdrawn.

Three month's extension of the deadline to respond to the pending office action is requested, the fee for which is submitted with this response. Applicant believes no other fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02705US2 from which the undersigned is authorized to draw.

Dated: 17 April 2007

Respectfully submitted,

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